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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,760	12/13/2000	Kazuo Watanabe	SONY-U0200	6661

26263   7590   01/19/2007
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ART UNIT	PAPER NUMBER
2137	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	01/19/2007	PAPER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/735,760
Filing Date: December 13, 2000
Appellant(s): WATANABE, KAZUO

MAILED

JAN 19 2007

Technology Center 2100

Christopher P. Rauch
Reg. No. 45,034
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/03/2006

appealing from the Office action mailed 11/15/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest

is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals,

interferences, or judicial proceedings which will directly

affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the

brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after

final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the

brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be

reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix

to the brief is correct.

(8) Evidence Relied Upon

5758069	OLSEN	05-1998
4458315	UCHENICK	07-1984
5790664	COLEY et al.	08-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the

appealed claims:

Claims 1-5, 7-11, 13-14 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Olsen (US 5758069), further in view

of Uchenick (US 4458315), and further in view of Coley et al (US

5790664).

Regarding claim 1, Olsen teaches a method of managing

software use by a software provider for distribution to a user,

comprising the steps of: encoding second information by using a

first key of a key pair of an open key encoding format (col. 10

lines 12-26); and transmitting the encoded second information to

said software user for said software user to decode said

transmitted encoded second information by using a second key of

said key pair of said open key encoding format (col. 10 lines

12-26, where a digital signature is used to transmit and decode
encoded information and col. 12 lines 33-44).

What Uchenick teaches that Olsen doesn't teach is storing
inside the software predetermined first information (col. 2
lines 1-8); providing the software to a software user on an
information storage means (col. 1 line 67, col. 4 lines 2-4 and
46-51) prepared corresponding to the software and to be
connected to an apparatus for running the software, which
information storage means is capable of being accessed by the
apparatus in a connected state (col. 2 lines 38-43, col. 2 lines
58-60); and to read said first information from said information
storage means, and to match said read first information against
said decoded second information, wherein said software is
enabled when the information match (col. 2 lines 9-16).

It would have been obvious to one of ordinary skill in the
art to combine Olsen's electronic licensing system with
Uchenick's method for preventing unauthorized use of computer
programs in order to provide a more adequate and reliable means
of preventing copying of unauthorized use of computer programs,
and particularly provide a means which does not depend on the
good faith of the licensee for its success (Uchenick col. 1
lines 52-57).

Olsen and Uchenick fail to disclose transmitting data to be matched each time the software user uses said software.

However, Coley et al teaches transmitting matching data each time the user uses software (see abstract and column 8 lines 54-67; column 9 lines 1-22, 42-51).

It would have been obvious to one of ordinary skill in the art to combine Coley et al's method of checking with the system of Olsen and Uchenick. Motivation to do so would have been to track the use and to disable invalid software (see abstract).

Regarding claim 2, Olsen, Uchenick, and Coley et al teach a method of managing software use as set forth in claim 1, in addition Olsen teaches receiving predetermined third information identifying the software provided along with said software and said information storage means from the user when said user seeks authorization of use of said software (col. 8 line 64 thru col. 9 line 3, col. 11 lines 33-35); identifying said software user based on said transmitted third information; and detecting second information to be matched against said first information stored in said information storage means given to the software user (col. 11 lines 21-48); detecting second information to be matched against said first information stored in said information storage means given to the software user (col. 11 lines 21-48, col. 12 lines 7-19).

Regarding claim 3, Olsen, Uchenick, and Coley et al teach a method of managing software use as set forth in claim 2, in addition Olsen teaches said first information and said second information are selected from the group of information consisting of identification information for identifying said software user, identification information for identifying said distributed software, and identification information for identifying said information storage means (col.5 lines 20-64, col. 9 lines 22-38, col. 10 lines 26-30).

Regarding claim 4, Olsen, Uchenick, and Coley et al teach a method of managing software use as set forth in claim 3, in addition Olsen teaches said first and second information is a password added to said software and said information storage means (col.5 lines 35-42).

Claims 7,13, and 14 are substantially equivalent to claim 1; therefore claims 7,13, and 14 are rejected because of similar rationale.

Claims 8-11 are substantially equivalent to claims 2-7 respectively, therefore claims 8-12 are rejected because of similar rationale.

(10) Response to Argument

Appellant argues Olsen fails to disclose a first information stored in its software.

However, as shown above, Olsen was not relied upon for this limitation; Uchenick teaches this limitation.

Appellant argues Olsen fails to disclose matching a first information to a second information, which is encrypted using a first key and decrypted with a second key.

With respect to this argument Olsen teaches the use of a RSA pubic key digital signature (see column 10 lines 24-26), when using a digital signature the information is encrypted and included with said information when it is sent. On the receiving end the digital signature is decrypted and compared with the sent information for, among other things, verifying non-repudiation. Therefore, Olsen teaches matching a first information to a second information, which is encrypted using a first key and decrypted with a second key because the public key digital signature algorithm uses two different keys for encryption and decryption.
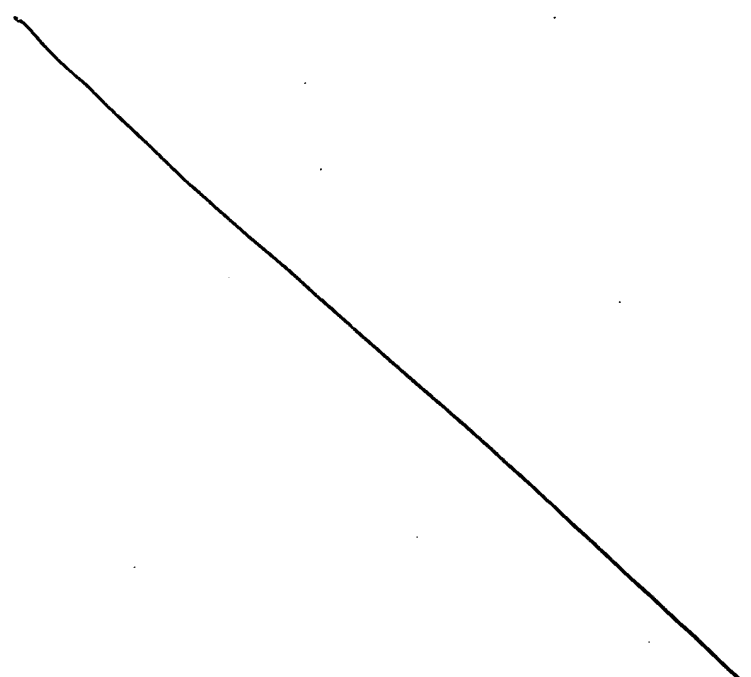
Appellant argues Olsen's license cannot be replaced with the key of Uchenick.

With respect to this argument, Olsen teaches that the license may include many different things such as, secret information to prevent unauthorized modifications, a digital signature, an activation key, or an attribute requiring the presence of a dongle (see column 10 lines 12-30). Therefore,

Olsen is teaching a license in a very general sense and could be

modified to be the key stored in the software of Uchenick.

Also, the information within the license is compared against

other information as described above with respect to the digital

signature as part of the activation of software. Furthermore,

Uchenick teaches the comparison of the key stored in the

software against a second key in order to activate software (see

column 2 lines 9-20). Applicant also argues that Olsen's

activation key cannot be substituted with Uchenick's second key.

As put forth above the modification is to replace the license

system, not merely the activation keys, of Olsen with the key

system of Uchenick. Applicant argues that Uchenick fails to

disclose the second/third information is encrypted and decrypted

with a second key, however as discussed above this information

is encrypted when using the digital signature algorithm of
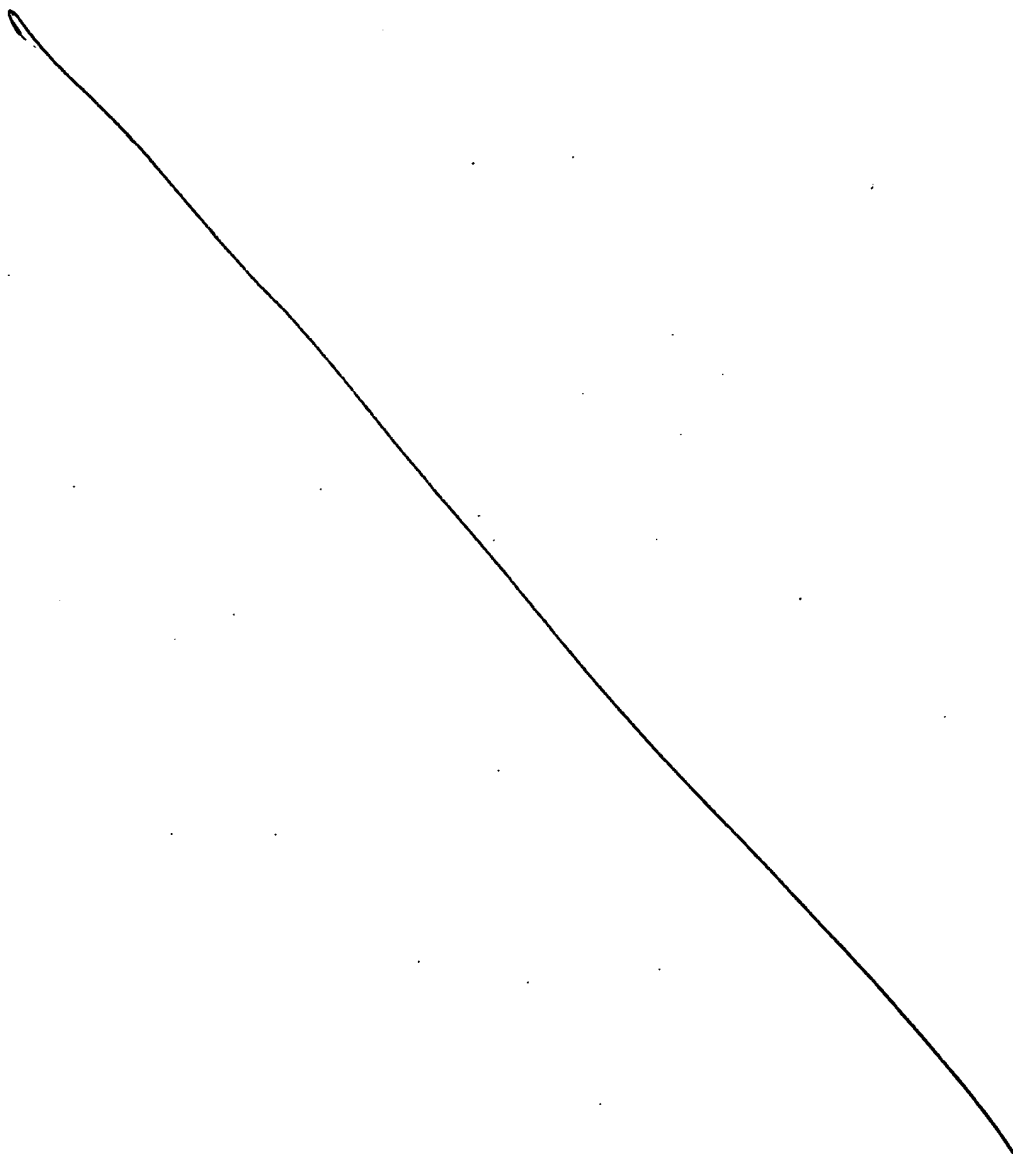
Olsen.

Appellant argues that Coley fails to disclose the limitations discussed above. This argument is moot in view of the above response as Olsen and Uchenick teach these limitations and Coley is relied upon for the teaching of transmitting data to be matches each time a software user uses the software.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.
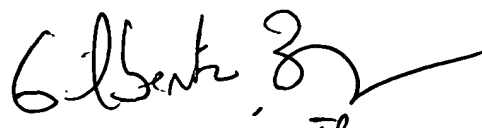
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael Pyzocha

January 11, 2007

GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
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Conferees:

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